

**ZB# 01-08**

**C.P. Mans**

**9-1-22**

Prelim.

Apr. 22, 2001

23

Public Hearing:

Sept. 10, 2001.

Need: C.O.'s  
② updated F.D. letter

Adjourned to

Sept. 24, 2001 -

(No Show)

Denied all

refund \$277.00

Note:

A copy of the formal  
decision, when accepted

by 20A, shall be  
forwarded to

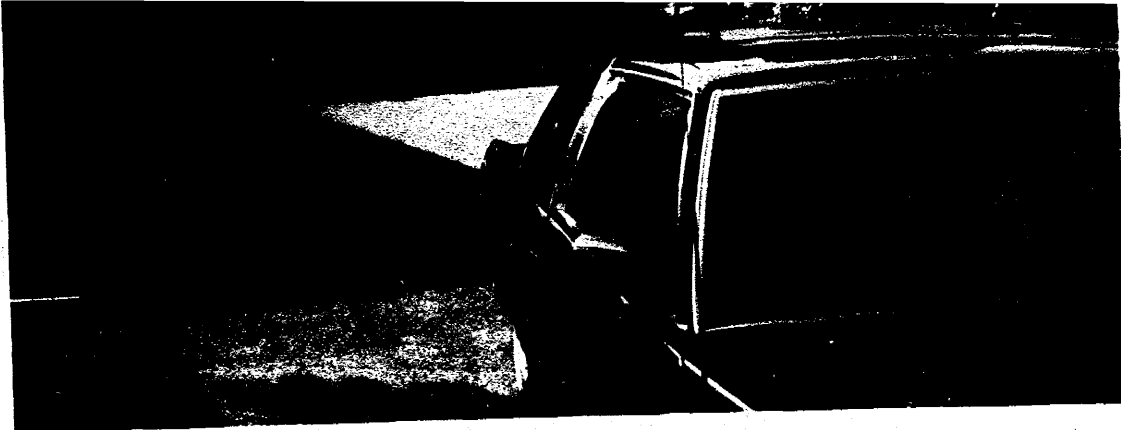
✓ forwarded to  
12/18/01 Judge Tope.

#01-08-Mama, C.P.

9-1-22.

area











9-1-22.

one

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Mans, Clarence P.

FILE# 01-08.

RESIDENTIAL: \$50.00  
INTERPRETATION: \$150.00

COMMERCIAL: \$150.00 ✓

AREA X

USE     

APPLICATION FOR VARIANCE FEE ..... \$ 150.00

*paid #6311  
8/8/01.*

ESCROW DEPOSIT FOR CONSULTANT FEES ..... \$ 500.00

*paid #6310  
8/8/01.*

DISBURSEMENTS:

STENOGRAPHER CHARGES: \$4.50 PER PAGE

PRELIMINARY MEETING-PER PAGE 4/22/01... \$ 27.00  
2ND PRELIMINARY- PER PAGE ..... \$       
3RD PRELIMINARY- PER PAGE ..... \$       
PUBLIC HEARING - PER PAGE 9/10/01... \$ 85.50  
PUBLIC HEARING (CONT'D) PER PAGE 9/24/01... \$ 40.50  
TOTAL ..... \$ 153.00

ATTORNEY'S FEES: \$35.00 PER MEEETING

PRELIM. MEETING: 4/22/01 ..... \$       
2ND PRELIM. .... \$       
3RD PRELIM. .... \$       
PUBLIC HEARING. 9/10/01 ..... \$ 35.00  
PUBLIC HEARING (CONT'D) 9/24/01 ..... \$ 35.00  
TOTAL ..... \$ 70.00

MISC. CHARGES:

..... \$       
TOTAL ..... \$ 223.00

LESS ESCROW DEPOSIT ..... \$ 500.00  
(ADDL. CHARGES DUE) ..... \$       
REFUND DUE TO APPLICANT .. \$ 277.00

**MANS BROTHERS REALTY, INC.**

P.O. BOX 247

ROUTE 94 AND OLD TEMPLE HILL ROAD

VALES GATE, NY 12584

6311

DATE July 30 2001 29-7003/2213 440

PAY  
TO THE  
ORDER OF

*Town of New Windsor*  
*One hundred fifty*

\$ 150<sup>00</sup>  
DOLLARS



Albany Downtown Branch  
**CHARTER ONE  
BANK**

FOR *20A* # 01-08

*CR Manabe*

⑆006311⑆ ⑆221370030⑆ ⑆4400287238⑆

GUARDIAN • SAFETY  
© Charter American Bank

6310

**MANS BROTHERS REALTY, INC.**

P.O. BOX 247  
ROUTE 94 AND OLD TEMPLE HILL ROAD  
VALES GATE, NY 12584

DATE July 30 2007 297003/2213 440

PAY  
TO THE  
ORDER OF

Town of New Windsor  
Five hundred & no/100

\$ 500  
DOLLARS



**CHARTER ONE  
BANK**

FOR 204 #01-08

OB Manna

⑆006310⑆ ⑆221370030⑆ ⑆4400287238⑆

GUARDIAN • SAFETY

In the Matter of the Application of

**C. P. MANS**

**MEMORANDUM OF  
DECISION DENYING  
AREA VARIANCES**

#01-08.

**WHEREAS, C. P. MANS, % Mans Bros., 28 Windsor Highway, New Windsor, New York 12553, has made application before the Zoning Board of Appeals for the following variances: 3.6 acres lot area, 91 ft. lot width, 60 ft. front yard, 11% developmental coverage, plus side yards: Bldg. #1-47/64 ft., Bldg. #2-46/85 ft., Bldg. #3-47.5/69.5 ft., Bldg. #4-0/20.5 ft. and Bldg. #5-42.5/22.5 ft., plus 5 total side yard for existing buildings located at 28 Windsor Highway in a C zone; and**

**WHEREAS, a public hearing was held on the 10th day of September, 2001 and continued on the 24<sup>th</sup> day of September, 2001, both hearings being held before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and**

**WHEREAS, the Applicant appeared by Philip Schnabel, Esq. and Paul V. Cuomo, P. E. on September 10, 2001 and there was no appearance on September 24, 2001; and**

**WHEREAS, two spectators appeared at the public hearing; and**

**WHEREAS, one spoke in opposition to the Application; and**

**WHEREAS, a decision was made by the Zoning Board of Appeals on September 24, 2001 denying the application; and**

**WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:**

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.

2. The evidence presented by the Applicant showed that:

(a) The property is a commercial property on which there are located approximately five (5) buildings.

(b) The property is adjacent to another commercial property on one side and residences on the other side.

(c) The Applicant owns a number of the adjacent residential parcels.

(d) The Applicant admits that at least some of the variances are as a result of self-created hardships.

(e) The present Applicant has owned the property since 1973.

(f) The Building Inspector's records do not show the issuance of certificates of occupancy and the Applicant was required to submit proof that they had been granted. The Applicant has failed to submit this proof.

(g) There is not sufficient evidence that the property, as it exists, will comply with the safety requirements of the New Windsor Fire Inspector. A report was offered by the Applicant which report was made in April. The Applicant was requested to supply an updated report which he failed to do.

(h) It appears that Buildings #4 and #5 are illegal and do not enjoy the status of pre-existing, non-conforming uses nor would they meet the present Zoning Code requirements.

(i) The canopies erected on the property (of which there are approximately 3) are not presently structurally sound and would not meet the requirements of the NYS Building Code. Therefore, if variances were granted, certificates of occupancy could still not be issued because of this unsound condition.

(j) It appears, from the testimony of a neighbor, that the properties are in poor repair and visually unsightly.

**WHEREAS**, The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The requested variances may produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties. The present structures situated on the premises appear to be illegally located there. It cannot be determined whether, if the property were improved by legal structures, what the use of said structures would be. The present structures are a visual detriment to the adjacent properties.

2. It cannot be determined whether there is any feasible method available to the Applicant which can produce the benefits sought other than the granting of the requested variances. The Applicant has suggested no feasible method nor has it supplied any proof or evidence that no other feasible methods exist.

3. The variances requested are substantial in relation to the Town regulations and are not warranted. The Applicant has submitted no evidence indicating that these variances are necessary or what could legally be placed on the premises.

4. The requested variances may have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created and should not be allowed. The Applicant has erected or maintained a substantial number of structures on the premises, all of the structures appear to be illegally located on the premises.

6. The Applicant has argued that some of the structures may enjoy a pre-existing status, but has supplied no credible evidence of this despite invitations to do so and an adjournment which was, at least partially, for that purpose.

7. The requested variances are not appropriate and may not be the minimum variances necessary to allow the Applicant relief from the requirements of the Zoning Local Law and at the same time preserve and protect the character of the neighborhood and health, safety and welfare of the neighborhood or community.

8. There is no evidence before the Board with which it could determine that any of the variances required are appropriate and the minimum ones necessary since the buildings on the premises are not only illegally located there, but have been improved or added to with structures that appear not to be engineeringly sound and in compliance with the NYS Building Code.

9. The interests of justice will not be served by allowing the granting of the requested area variances for the reasons set forth above.

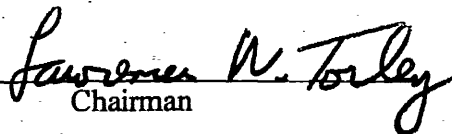
**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Zoning Board of Appeals of the Town of New Windsor DENY the requested area variances as aforementioned in paragraph #1, in a C zone, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

**BE IT FURTHER**

**RESOLVED**, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Justice Court, Town Planning Board and Applicant.

Dated: December 17, 2001.

  
Chairman



**LUCAS, MICHAEL**

Mr. Michael Lucas appeared before the board for this proposal.

MR. TORLEY: Request for interpretation of three family residence as a non-conforming use in a PI zone at 27 Cullen Avenue. Do we have anyone in the audience wishing to speak on this matter? Let the record show there are none.

MS. CORSETTI: I have here an affidavit that states that we sent out 32 letters on October 31 in conjunction with this public hearing.

MR. KRIEGER: Once again, for the record, the applicant is an existing client and a close personal friend for many, many years and therefore, I prefer not to take an active part.

MR. TORLEY: Thank you for that notation. So Mike, what do you need?

MR. LUCAS: Well, I have two more documents, one is from one of the oil companies and the other one is some of my great photography that I took.

MR. TORLEY: Let the record show that I have received a letter from ASCO Commercial Operation supporting the applicant.

MR. KANE: How long has that building been in use?

MR. LUCAS: As multi family, as long as I can remember, I mean, and I was born and raised in this town, so from what I remember of it, there was a store there when I was a kid.

MR. TORLEY: Was that 1890?

MR. LUCAS: Yeah, thank you.

MR. TORLEY: Would you also note for the record we have additional three affidavits, one from Robert R. Rogers, another one from someone named James Nugent, and a

third one from Andy S. Spignardo all supporting the applicant's position.

MR. LUCAS: Bobby Rogers lived next door there growing up and I've had a conversation with him, he used to deliver papers there and he in fact this morning he told me he remembered the names of the tenants. I'm a member of the New Windsor Fire Company and when I bought way before I bought it, one of the fireman's brothers lived upstairs in the third floor, so I have always known it as being that.

MR. KANE: Do you know of any complaints, formally or informally about that arrangement?

MR. LUCAS: No, I don't think. Is there anything in the record that I know of?

MR. BABCOCK: No.

MR. TORLEY: There are a couple of other matters though that my secretary's handed to me an application for the installation of the sewage disposal back in '74.

MS. CORSETTI: They came from the building department.

MR. TORLEY: Showing this as a one family residence and a building permit dated and November of '87 for repairs showing number of dwelling units one. Mike, do you have any--

MR. BABCOCK: Basically, Mr. Chairman, that's why he's here.

MR. TORLEY: So the applicant's position was that it was a three family dwelling but at various points in time.

MR. BABCOCK: There is information in here where there's an application made for a sewer disposal system, we don't know who made that application, we don't know who wrote one family in there, but we do know that it says one family. When Mr. Lucas came in, this is, I think was even prior to him owning this property.

MR. LUCAS: Well not that property, but I owned the property next to here also and the Town of N Windsor requested an easement, I don't even know, they didn't request an easement, they put a sewer substation there, a pump, and I think it was to hook up that property that they had given that permit and at this time, there was nothing on that property. I, since then, have built a structure on that property, so that's what I think that application is for.

MR. TORLEY: So, this is really referring to an empty lot?

MR. LUCAS: Right.

MR. TORLEY: Not the lot in question?

MR. LUCAS: And that empty lot has this building here.

MR. KANE: Did you look at the front on the '87?

MR. LUCAS: That's the thing on the application but on the official permit, they still say no families living there so mine, where do you lead or where do you go from there?

MR. BABCOCK: At some point in time also there was information that led that it was, ceased as a two-family house and that led us to believe that it may not be a legal three-family house. Again, that's why he's here tonight because they assessed it as a two family, doesn't necessarily mean that it was two or three family, it's been assessed as a three family for I'm not sure how long. Mike, you probably would know.

MR. LUCAS: It's a confusing issue but I have always known it's two family. When I bought it as far as Mr. Rogers, he's lived there since the '50's, I've never had any complaints. There's plenty of parking there, in fact, I even let one of the woman behind on a piece of property behind there doesn't have parking on her street, so I let her park on this property because there's enough parking there for everybody.

MR. REIS: Has the building been inspected from the building inspector's, from your point of view, structurally and mechanically, it's acceptable as a three family?

MR. BABCOCK: I don't know, have we been there, Mike?

MR. LUCAS: You haven't been there, but the fire inspector has been there because it is a three family, the fire inspector makes inspections there. I was going to request that today to have some of the inspection reports given to you, but how much, I mean, I already asked Bob to do that, I couldn't ask him.

MR. KANE: You've had no violations?

MR. LUCAS: The only violation I had a flood there one time and I had to do some, I brought an engineer in and I had some structure damage and I repaired it and I complied. Then I had Mr. McDonald came down, we went over the work that was done and it was acceptable and that's the only time that we have ever had a problem with that and in fact, the last I did have it inspected by an engineer also that was just done recently.

MR. REIS: I'm just trying to give you some credence here, Mike. You have separate meters?

MR. LUCAS: Yes, shows here all the separate meters and the one that you can see there on one of the pictures there's a road that's under it, it would be the north side and I talked to the highway department, there was a washout there so think had to go through the state, long story short, they're going to this week, the end of this week they're going to repave it and it's all, but they actually had that road blocked off until they had settled the issue with the town so this will be a new surface.

MS. CORSETTI: It was never settled.

MR. LUCAS: It wasn't settled?

MS. CORSETTI: They're working on it.

MR. LUCAS: Because I talked to the woman at Henry's office today or yesterday and she says it's scheduled for repair, I didn't know if it had to do with the claim.

MS. CORSETTI: Well, the town has to repair it but it's really not our road.

MR. LUCAS: Okay, well, okay.

MR. TORLEY: I'm looking at the referral saying existing one-family house converted to three-family house without first obtaining a building permit.

MR. BABCOCK: The only way that he can get here is cause we're saying it's a one-family house, basically because of some of the records indicate sometimes the records indicate that it's a no family house, but some of them do, so we said it's a one-family house. We have a letter from the assessor's office that since then has changed in 1999, there was a letter, there was an open building permit for some repairs that he did, that's what he got the engineer's report on, I guess they had the flood at the time, the assessor wrote a letter in 2001, March of 2001 indicating that this is converted to a three-family house and that's how this whole process started.

MR. REIS: Is it currently occupied?

MR. LUCAS: Yeah, all three are occupied, it always has been.

MR. TORLEY: We have a conflict in records, some, but not all town records indicating it's a two-family house and affidavits from neighbors saying it's been a three-family house since almost time in memorial.

MR. LUCAS: And a store, it was also, Bobby Welch, who was our past fire chief said that along with that, and I can see where the store was when I did some work, there was a store there, too.

MR. REIS: I make a motion that we make a positive interpretation that this property at 27 Cullen Avenue

is in fact a three family residence.

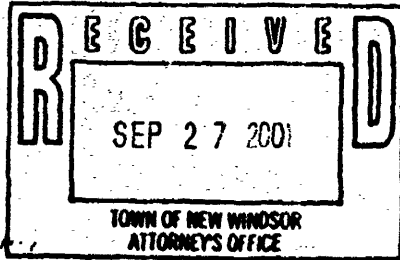
MR. TORLEY: As a pre-existing non-conforming use.

MR. MC DONALD: Second it.

ROLL CALL

MR. KANE	AYE
MR. REIS	AYE
MR. RIVERA	AYE
MR. MCDONALD	AYE
MR. TORLEY	AYE

Date ..... 7/23/01 .....



**TOWN OF NEW WINDSOR**  
TOWN HALL, 555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553

TO ..... Frances Roth ..... DR.  
168 N. Drury Lane  
Newburgh, N.Y. 12550

DATE			CLAIMED	ALLOWED
7/24/01	Zoning Board Mtg		75 00	
	Misc - 6			
	Batsakis - 3			
	Langer - 2			
	Baker - 3			
	Pimiceli - 2			
	Bela/Orange Cty Trust - 5			
	Corbett - 3			
	Mans - 9		148 50	
	33			
			223 50	

MANS, C.P.

MR. TORLEY: I want to remind you gentlemen of some items that were in the minutes from the last public hearing for the first part of the public hearing on Casey Mans' application, where we stated that we were going to adjourn it to today, Mr. Schnabel, his lawyer, was apprised of that. He stated that he wouldn't be here but he was told that someone will be here. And I also warned him Mr. Mans will be here or we'll continue without you, if necessary. I'm informed by our attorney that we may proceed, even if he doesn't show up, given they've been adequately warned.

MR. KRIEGER: That's correct.

MR. TORLEY: Let's take this, I want to get this finished, I don't want to stall, I see no reason for us to delay.

MR. KANE: I don't see a reason for delay.

MR. REIS: Just for the record, have you had any communication from these people in the last two weeks?

MR. BABCOCK: No, actually, that's not true, Mr. Cuomo came and seen me and told me that he had the task to try and find out which building had C.O.'s and which building didn't and I told him to start in the assessor's office to see what their cards read, come back to my office, we pulled the files, I left to go and do inspections while the girls were going over with him on what buildings did or didn't have C.O.'s. I'm informed that the mobile home that's in the back of the property, to be a legal mobile home today, you would have to follow the process of the law throughout the years. If you had a mobile home there in 1950, you replaced it in 1960, it was okay. But anything after 1966, you were required to get a building permit and do the process of what the Town Code is, on slabs or whether should be on a full foundation or skirting, whatever, and replace it in 1970 and then get a building permit to replace in 1980 and 1990 and you're here today in 2000 wanting to replace it again, you'd be entitled to a building permit. But if you miss one



of the processes throughout the years which you have because you have a 1980's trailer, I don't know what the exact year is but they're trying to say it's been there before zoning, it wasn't built before zoning so it couldn't have got there and that trailer doesn't have a building permit to be there. So they didn't follow the process, so the paperwork has got lost throughout the years, that's the discussion I had with him and he said okay and that was it.

MR. KRIEGER: Is that referred to here as building number something or other?

MR. BABCOCK: It's the mobile home in the rear that somebody's living in.

MR. KRIEGER: But I see that the board has to decide on buildings one through five, just trying to figure out if that's one of the one through five.

MR. KANE: One's the front, two's the main, it's either four or five.

MR. KRIEGER: I believe it's number 5, that's the mobile home 14 x 70. The other building 4 is identified on the plan.

MR. BABCOCK: That's correct, building 5, building number 5.

MR. KRIEGER: Just wanted to clear that up for the board.

MR. TORLEY: Again, according to our minutes, the building inspector stated we requested information from the applicant as to which if any of the buildings had C.O.'s and we informed the applicant or rather his attorney that absent proof of the C.O. we'd assume that there was none and the attorney accepted that as a reasonable statement.

MR. KANE: Then in all honesty, I don't see going any further. We don't have proof of C.O.'s on any of the buildings. They were informed to be here and in my mind's eye, that just calls for a denial on all

accounts because we don't have C.O. information on any of the buildings.

MR. TORLEY: I should like to make one change, I would, with your gentlemen's approval, I'd like to take up the overall lot area as a separate, separate issue, that's the first request, that's the 3.6 acre lot, the entire lot, not the buildings there on one is just a straight area variance request for the lot.

MR. KANE: To be devil's advocate or be argumentative, if we don't have an indication on any of the buildings, how can we give any kind of a variance?

MR. TORLEY: This is merely a variance on the dimensions of the lot.

MR. KANE: As compared to what?

MR. TORLEY: It's a lot area variance, not anything regarding the structures.

MR. KRIEGER: If an area variance were granted, it would allow him to erect a structure. He'd still have to comply with the law, otherwise, so it wouldn't, the granting of a lot area variance would not automatically entitle him to anything regarding the structures that may happen to be on there. You might have a lot area variance but he still doesn't have the right.

MR. KANE: The lot area variance is geared to the size of the building that's going to be on that particular lot.

MR. TORLEY: Possibly but there are as far as I'm concerned officially there are no buildings on this lot.

MR. KANE: Again, I'm a little bit of learning here too but if there's no buildings per se, if there's no buildings on the lot, then there's no need for a variance.

MR. TORLEY: But absent the lot area variance, nothing could ever be constructed on the lot.

MR. KANE: But I would think that at that point, the person that wants to build something in here should bring the specs and we have some data to work with, I just want to make sure on this lot.

MR. MC DONALD: I feel the same way as Mike does. We grant him a lot variance then you can see why he's here now, rules don't seem to apply to this person and here we go out and give him a lot variance, he'll do what he wants to do and we'll be right back to where we started.

MR. KANE: I'm just not clear on why you'd give, if you have a blank lot and there's nothing there, you don't need a variance because you're not applying for anything.

MR. TORLEY: I was willing to take it in sequence then, let's, for purposes then so we'll have votes on the individual variances so we have separate line for each one. Before we begin that, Mike has handed me a letter dated May 31, 1994 from Abstract Incorporated regarding this property we have been discussing, they indicate that a building permit was issued for a metal sales and storage area in May of 1982. To date, no Certificate of Occupancy has been issued for this permit and the assessor's record indicated building permit 1561 was issued for the conversion of a garage to showroom without a building permit and the cottage was renovated in 1974 without a building permit. So according to all the town records, none of these things have ever complied with any of our codes.

MR. KANE: On the lot area, if there's no building, you don't need a variance on the land, unless you're going to give a specific design for what you want to put on that land. Correct me if I'm wrong.

MR. TORLEY: Okay, so again repeating that our documentation implies that there's never been any completed C.O.'s on any of these structures.

MR. KANE: Before we vote on anything, do you follow what I mean, Andy, as far as why we would give an area

variance, if there's technically no buildings on there, then he doesn't, doesn't that open up Pandora's Box to a degree? What are we giving a variance on?

MR. KRIEGER: Only to a degree, the Chairman was talking about the lot area, not the others, just the area. With respect to the lot area, the problem is without a variance if the lot is smaller than what would be allowed for any allowed use in the zone, then he has an unusable lot and he would be entitled to apply for a variance. Absent any other variances, he would still have to, if he erected a structure, comply with all the regulations, building permits, C.O., setbacks, side yards, et cetera and so forth.

MR. KANE: If we didn't give an area variance on this particular lot right now somebody wanted to build or get a permit on that, they would have to come back to the zoning board again and get a variance, an area variance on that particular lot geared to the building they're trying to build.

MR. TORLEY: The alternative is absent any such variance, it would make it, I'm sure Mike would agree, much more difficult for someone else to purchase this property and get it into other hands.

MR. REIS: If we don't come up with a variance on the property, I don't want the board to be in a position where we can be sued because he has buildings and we're saying that nothing's allowed because he's never done what he's had to do properly.

MR. TORLEY: I do not wish to appear in any way acting in an arbitrary or capricious manner.

MR. REIS: Thank you.

MR. KRIEGER: Yeah, if it were denied because he personally has that would be wrong, if it were denied, if any variance were denied because it didn't meet the criteria necessary, one or more of the criteria necessary that wouldn't be arbitrary and capricious.

MR. KANE: My feeling on the lot area is I don't know

what I'm giving it for on that particular thing, if the building doesn't exist and right now, they don't without a C.O.

MR. KRIEGER: So he wouldn't know whether he can achieve the same end by some other method, which is one of the criteria.

MR. KANE: Or if somebody wanted to purchase the property and put one building on it and get whatever lot area variance they needed at the time for that particular building with whatever setbacks that would be something that would be feasible to me in the future.

MR. KRIEGER: Also whether or not the alleged difficulty was self-created, I mean, you may factor that in. So what you're saying you can't tell whether there's an undesirable change or a detriment to neighbors because there's no way of knowing what it's going to be used for, therefore, you don't have enough information to make that determination, is that correct?

MR. KANE: I agree.

MR. RIVERA: I'm inclined to agree with Mr. Kane.

MR. TORLEY: In that case, I'll accept a motion on the first variance request which is simply the lot area.

MR. KANE: Just to interrupt you again as a point of order, I'm on a roll tonight, I think that we officially need to close the public hearing.

MR. TORLEY: Thank you for reminding me. We had previously adjourned the public hearing to this date, there being no one in the audience, I'll now close the public hearing and reopen it up to the members of the board again. I, at this point, I'll accept a motion regarding simply the lot area, 3.6 lot area, 91 foot lot width, do I hear a motion on that?

MR. KANE: I move that we approve the request for a variance 3.6 lot area and 91 foot lot width.

MR. MC DONALD: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MC DONALD	NO
MR. KANE	NO
MR. REIS	NO
MR. TORLEY	AYE

MR. TORLEY: Were you in favor of granting a variance on the lot area?

MR. RIVERA: No.

MR. TORLEY: Do you wish to change your vote?

MR. RIVERA: Yes.

MR. KANE: Mr. Rivera, just to define a point again every request has to be made an affirmative.

MR. TORLEY: To grant.

MR. KRIEGER: Then you can deny it.

MR. RIVERA: I change that to no.

MR. KRIEGER: The person making the motion can vote against it.

MS. CORSETTI: We have one aye and four nays.

MR. TORLEY: The second, I'm not, second request I'm assuming that we're not talking about the 60 foot front yard, 11 percent developmental coverage, side yards, we can take the remaining variances we can discuss now then take it in block, if you wish. Anybody wish to say anything more about the remaining variances?

MR. KANE: No, sir.

MR. KRIEGER: What's remaining?

MR. TORLEY: Building 2.

MR. KRIEGER: Building 1, 2, 3, 4, 5 plus 5 total side yard variances.

MR. TORLEY: Correct. Now I've found no reason to justify any of these variance requests. This temporary awning I think has been here for quite a number of years, it's hardly temporary anymore as our building inspector's pointed out, there would be nothing on the record indicating that building number 5 was in a continuous compliance with the codes at the time and therefore does not meet any grandfather benefits and is also illegal. Building 4 is unacceptable to me and we still have a couple of things that were not in the initial request, the truck and travel trailers sitting on the side over there, they also would not apparently meet any of our code requirements and we have given the applicant more than sufficient time and notice to provide us with any information in defense of this present structure so gentlemen, I'll entertain a motion on the remaining variances.

MR. KANE: I move that we approve the remaining requested variances by C.P. Mans for 28 Windsor Highway.

MR. MC DONALD: Second it.

ROLL CALL

MR. RIVERA	NO
MR. MC DONALD	NO
MR. KANE	NO
MR. REIS	NO
MR. TORLEY	NO

MR. KANE: Obviously, the planning board will be informed of our decision here. It's my opinion that we should also notify the Town Justice as per since Mr. Mans was here because of the Town Justice.

MR. KRIEGER: I would suggest that you notify him verbally of a decision now and provide a copy of the decision of the board and when the formal decision is

adopted by the board, supply him with a copy.

MR. TORLEY: So Andy, would you then take the duty of informing the Town Justice of our decision?

MR. KRIEGER: Sure, I'll be happy to do that.

FORMAL DECISIONS

1. PICERNO
2. MC CURRY
3. ROBLES
4. BILA FAMILY/TUTOR TIME
5. VSH REALTY/QUAISAR

MR. TORLEY: The only remaining item of the board we have a couple of formal decisions, if you gentlemen have had time to read them and want to vote on them.

MS. CORSETTI: If not, we can put them on the next agenda.

MR. KANE: I read them.

MR. TORLEY: Any questions?

MR. KANE: Mr. Chairman, I move that we accept all formal decisions as written.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. KANE	AYE
MR. REIS	AYE
MR. TORLEY	AYE



Date 9/12/01, .....

# TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553

TO Frances Roth DR.  
168 N. Drury Lane  
Newburgh, N.Y. 12550

DATE			CLAIMED	ALLOWED
9/10/01		Zoning Board Mtg	75.00	
		Misc -		
		contin - 2		
		Sisters of the Presentation - 4		
		Harris - 4		
		Corbett - 3		
		Hughes - 3		
		Mans - 19		
		Kalpan - 3		
		Singh - 6		
		45	207.00	
			277.50	

PUBLIC HEARINGS:

MANS, C.P.

MR. TORLEY: Referred by Planning Board for variances: 3.6 acres lot area, 91 ft. lot width, 60 ft. front yard, 11 ft. development coverage, plus side yards: Building #1-47/64 ft., Building #2-46/85 ft., Building #3-47.5/69.5 ft., Building #4-0/20.5 ft. and Building #5-42.5/22.5 ft. plus five total side yard variances for existing buildings located at 28 Windsor Highway in a C zone.

Phillip Schnabel, Esq. and Mr. Paul Cuomo appeared before the board for this proposal.

MR. TORLEY: Is there anyone in the audience who wishes to speak on these set of variance applications?

MR. BABCOCK: Mr. Chairman, that's 11 percent.

MS. CORSETTI: For the record, we sent out 21 notices to adjacent property owners.

MR. TORLEY: Are all of these plans dated 4/28/97?

MR. SCHNABEL: Yes.

MR. BABCOCK: Do you need another one?

MR. TORLEY: No.

MR. SCHNABEL: Phil Schnabel appearing for Mans and Paul Cuomo. Mr. Chairman, the last time I was here in April, there was a question raised about a fire violation and I've got a letter from Bob Rogers, the fire inspector, dated April 27th indicating that the property has passed the fire inspection and I will submit that to the board.

MR. TORLEY: Let's take these one at a time. First we're looking at the 3.6 lot area 91 foot foot lot width and 60 foot front yard. Where is that occurring? Is that the canopy?

MR. CUOMO: This is the building one that's the showroom.

MR. SCHNABEL: Now, I want to just preface this presentation with some background. Mans has owned this property since 1973. There were numerous violations on the property and to bring it into compliance with the assurances that I made to the Town of New Windsor Justice Court Judge Thorpe, in particular, that's the reason that we're before the ZBA to get the required variances, if we can. It's an operating business and as I say, it's been, Mans has owned it since 1973. The variances that are sought are pretty substantial, they are all existing buildings and certainly we admit that it's a self-created hardship. Some of the buildings have been there prior to the enactment of the zoning code, therefore, non-conforming, others are not. But to grant the variance would not affect the character of the neighborhood, it's a commercial zone, the business has been there for quite a while and as far as I can determine, there's no other feasible method other than getting a variance for the existing structures and for this operating a business. So, with that, I'll leave it up to the board.

MR. KANE: You say some buildings were there pre-existing?

MR. SCHNABEL: Yes.

MR. KANE: Can you show us some evidence that they were there before zoning?

MR. SCHNABEL: The only thing that I can tell you is that the plan prepared by the engineer indicates that building number 1 was pre-existing and building number 3 was pre-existing and building number 4 was pre-existing and building number 5 was pre-existing, only new building there is is building number 2.

MR. KANE: Michael, do we show anything on records with any kind of permits for the building to be built?

MR. BABCOCK: I think we have to be careful when we say pre-existing. Pre-existing is something that would be

there before the local law. I don't think that we mean that they're pre-existing, they were there, the addition of the canopies and stuff is what we're talking about basically tonight.

MR. SCHNABEL: The canopy is not pre-existing.

MR. BABCOCK: That's correct.

MR. TORLEY: So building number 1 was built before 19, when did the local code come in, '67, building number 1 was built before 1967?

MR. BABCOCK: No, I don't think it was, no. I think the word pre-existing is being used wrong. I think that we're saying that building number 1, 2 and 3 are existing buildings, they have been there with building permits and whatever so they're okay, we don't mean they're pre-existing to zoning, they're just existing.

MR. CUOMO: But the canopies are new, relatively new.

MR. TORLEY: So Mike you're saying that building number 1 which now is missing some of the, requires some variances, that building was put up and a C.O. was issued and the zoning code has since changed after it was built.

MR. SCHNABEL: I don't believe, if I might, I don't believe that the canopy--

MR. TORLEY: We're not talking about the canopy, just for example, building number 1 sales and showroom, the structure itself was built with the building permit and C.O. was issued to it and since that time, the zoning code has changed or 25 or 30 years ago when it was put up, there's simply an error in issuing the C.O. long before you came here. Mike, you were in school then so I don't know.

MR. BABCOCK: I've never done that part of the research. We've treated those buildings based on the assessor's information. I don't have that all in front of me. We have treated the existing buildings as being there, being existing.

MR. KANE: The reason I ask if the buildings were there and they've been pre-existing in there then, you know, I would have thought that the side variances would have been taken care of a long time ago when they built the building, that's what I'm trying to clear up, the problem.

MR. CUOMO: You see what happened, we got these canopies coming in and that--

MR. SCHNABEL: He's not talking about the canopies. The canopies, we can all agree the canopies were put up I think as a temporary measure then became permanent and I don't think there was a C.O. for that.

MR. TORLEY: Was it the case when the building was put up the entire set of the property was in one lot?

MR. SCHNABEL: Right.

MR. TORLEY: Buildings were put up, the lot, lots were split, the lot was split into sub lots.

MR. SCHNABEL: I don't believe they were split into sub lots, no.

MR. TORLEY: My question is I'm looking at the lot under discussion by a note that several of the adjacent lots are also owned by Casey Mans, correct?

MR. SCHNABEL: That's correct, right.

MR. TORLEY: Now, my question was when the building was put up, say number 1, were all of these lots held as one lot and therefore it didn't need any variances?

MR. SCHNABEL: No, I believe the other properties on Fern that have, some of the properties that are on Fern Avenue and owned by Mans were bought subsequent to Mans buying the lot in question.

MR. TORLEY: So the building in question was basically in violation of the zoning code when it was put up?

MR. SCHNABEL: I don't think so, I don't believe that Mans put that up building.

MR. TORLEY: I didn't say that. I said when the building was put up, when Casey Mans, it was there when he bought it?

MR. SCHNABEL: Right.

MR. TORLEY: The building itself at the time he bought it was in violation of the code?

MR. SCHNABEL: I would probably agree because that's why we're seeking variances for the area variances, obviously, we wouldn't be here if the area variances had been granted at some prior point.

MR. BABCOCK: Mr. Chairman, we can get that information very easy. I can't get it tonight, but I do have a letter here that the shop and cottage were built in 1930 and 1950. So the shop, whichever one is the shop, there's definitely no cottage there, so they've either converted the cottage to something--which one is the shop? They're all shops so--

MR. SCHNABEL: I think the shop is building number 3.

MR. TORLEY: Now, my next question is--

MR. BABCOCK: We can ask them to give us that information, I'm sure the assessor's office will have some type of idea when these structures were built.

MR. SCHNABEL: If I could also make a comment because I think it would be clearer on building number 2 is the one that was built subsequent to Mans buying the property and I don't know the reason why the variances were not sought at the time because a building permit was issued and I understand a C of O was issued based on various things that he had to do there, put in handicapped ramps and so forth.

MR. TORLEY: So, building number, several of the structures were existing when Mr. Mans bought the property and it's possible that at least one of the

them may have been existing before the zoning code?

MR. SCHNABEL: Yeah, I believe from what Mike said there's at least two, 1930 and '50.

MR. TORLEY: One might not be there.

MR. BABCOCK: Building number 2 was a building permit in 1982, it was, a building permit was issued in 1982 for that.

MR. MC DONALD: Did he get a C.O. with it, Mike?

MR. BABCOCK: I know they're working on it, Mr. Schnabel's saying that they did receive that, I didn't know that they received it.

MR. SCHNABEL: There was several requirements that were not in conformance and as I understand it and this is based on information and belief from my client that well I did see a blacktopped handicapped access ramp that was put in and I believe that sliding doors were required by the building department were put in as well, but I don't want you to take that as gospel, Mike.

MR. BABCOCK: According to my file, Mr. Schnabel just for the record my records indicate that the C.O. has not been issued yet.

MR. TORLEY: I don't see how it could be with 11 foot on one side and a couple feet on the other, C.O. could not be legally issued.

MR. SCHNABEL: Seems like it's going backwards, should of come for the variance prior to building this building, right. But I've been doing this now for four years trying to clear up variance problems that my client has experienced over the years.

MR. BABCOCK: Mr. Chairman, the list is quite lengthy of what has to be done for the building. I know they are working on it and one of the requirements is planning board approval. In order to get planning board approval, they've got to get, the planning board

sent them here for the necessary variances, if they're successful, they go back to the planning board and if they have completed all the work that we have asked them then they would get a C.O.

MR. SCHNABEL: That was the assurances that I gave to the justice court.

MR. TORLEY: Gentlemen, as our discussions goes on on this, I would like to move to the canopy and then to the mobile home, if you don't have any objections. If you want to do a different order--

MR. KANE: Fine.

MR. TORLEY: Canopies?

MR. SCHNABEL: The canopies, as I understand it, were put up as a temporary measure because of the pollution, dirt and dust from the other industries in the area.

MR. TORLEY: They have been temporary for a long time.

MR. SCHNABEL: That's why I'm here and it evolved into now we're here trying to get a variance so that it can be all corrected and legal. But I don't want to mislead the board in any way. They were put up as far as I understand it as a temporary measure to shield certain of the cycles and so forth that they sell there from the pollution of the nearby businesses. And it was supposed to be as far as I understand it for a couple month period until the items were sold and that has evolved into not--

MR. TORLEY: Mike, I don't see any variance request for the canopies as such, maybe I'm misreading this.

MR. BABCOCK: Actually, if the canopies were to receive these variances that's requested, it would make the buildings legal. Also, the canopies are closer to the property lines than the building. Well, if you look at the front yard that you had asked me, if you look at the front, New Windsor Highway where it says Windsor Highway, the 40 feet the canopy should be 100 feet from the road, so that's the 60 foot variance.



MR. TORLEY: How far is the building from the road?

MR. BABCOCK: It's 56 feet plus 40 would be 96 feet, the building is close.

MR. KANE: Wouldn't you add the other 16 feet in front of building?

MR. BABCOCK: Excuse me, you're right.

MR. TORLEY: Well, I don't know, maybe that's the outside of the L.

MR. KANE: Well, you've got the 126 width on the one in front of the building, then the 56 length and then the 40.

MR. TORLEY: I just wasn't sure whether the 56 was measuring on the outside of the L shape.

MR. KANE: Okay.

MR. TORLEY: In any case, neither one of the canopies would meet the existing front yard setbacks.

MR. CUOMO: Right.

MR. TORLEY: Nor would they meet the side yard requirements.

MR. BABCOCK: That's correct.

MR. KANE: So the front is the one going under the 60 foot front yard.

MR. BABCOCK: Where it says building number 1 and then the next side yard it says building number 1, you have 3 foot on one side, 36 feet on the other side, you're supposed to have 50 feet so he needs a 47 foot variance on one side and a 64 foot variance on the other side.

MR. TORLEY: Maybe I misheard you, do we know when building 1 was put up and does it actually have a C.O., does building 1 have a C.O.?

MR. BABCOCK: I don't have that information with me tonight.

MR. TORLEY: Do you think evidence that building 1 has a Certificate of Occupancy?

MR. SCHNABEL: The only evidence I have is my client's statements to me which I have not verified and I preclude my remarks with that caveat.

MR. TORLEY: Thank you. We appreciate that. So they talked about the 4 canopies now I see canopies coming off in between building 3 and 2.

MR. BABCOCK: That's correct.

MR. TORLEY: They are also quote temporary canopies that have become semi permanent?

MR. BABCOCK: That's correct.

MR. KANE: If the side yard variances are issued then the canopies can become permanent?

MR. BABCOCK: Yes.

MR. TORLEY: Gentlemen, can we move to the trailer?

MR. REIS: I have a question, Michael, are these canopies from any information that you have structurally, have the structural integrity that they should have?

MR. BABCOCK: We didn't believe so at first but the engineer I guess Paul you looked at those.

MR. CUOMO: Yes, I've studied them.

MR. BABCOCK: With several supports and braces and bolts, Paul feels that they could come in compliance, that's what I have understood from Mr. Mans.

MR. TORLEY: So at this point in time, they would not.

MR. BABCOCK: That's correct unless they have done the work.

MR. CUOMO: We could research that, if appropriate measures are taken.

MR. BABCOCK: If they're approved, they're going to meet the New York State Building Code or else they're going to get torn down.

MR. MC DONALD: They have been there for an awful lot of time now what we're looking at has been compounded over and over and over again.

MR. TORLEY: These canopies have been up a long time, maybe as long as I've lived here.

MR. SCHNABEL: Well, I've been representing Mans for four years and I know the canopies were up there quite a while before I started representing him.

MR. TORLEY: Do you know how long the canopies have been up?

MR. CUOMO: No.

MR. TORLEY: Been a long, long time.

MR. KANE: Mr. Chairman, my own personal feeling before we proceed, I would prefer to see some kind of solution, resolution as to the C.O.'s on building 1 and 2 or each of the buildings, in fact, before we can proceed on giving the judgment whether we're going to give side variances or area. There seems to be a lot of lack of information and I kind of need to make that decision.

MR. TORLEY: We have no evidence in hand neither from the building department at the time nor from the attorney other than that they do have some, we're free to assume as we wish.

MR. MC DONALD: I couldn't vote on this this evening, not in good conscience, there's too many open areas, too many gray areas.

MR. TORLEY: I agree we need not vote this evening, but move through some of the other issues and we're under no obligation whatsoever to vote this evening.

MR. BABCOCK: When we wrote this up as you can tell it's quite confusing, the canopies make the conditions worse for every building so we wrote it up as if we know the canopies were not legally put there, we wrote it up as if the canopies were here tonight for variances and if you gentlemen give the variances to the canopies, it makes everything okay, that's why we wrote it that way. Looking at the buildings, they'll have to give us some information, we'll have to get together with the assessor or somebody and try to determine when these were built.

MR. KANE: To give a variance on a building that I don't know has a legal C.O. on it makes it a little tough, in my opinion, that's what I'm thinking.

MR. TORLEY: Very good point. With your permission, we're not going to come to a vote tonight. We want to get more information on it to the public. I'd like to move with your permission let's talk about the mobile home now. Now, I've not made a detailed survey of this whole structure, and let's say it does not show the greatest credit upon structural integrity and maintenance that I've seen in this town. And this mobile home in the back, I don't understand that one at all.

MR. SCHNABEL: Well, mobile home was a pre-existing mobile home.

MR. TORLEY: That's been there since 1965 or '67?

MR. SCHNABEL: I have letters from Mr. Monte who sold it to Mans and then I can dig it out of the file but save some time as long as the pre-existing mobile home is on, according to Town Code 27 A-5, placed on a permanent foundation, it's appropriate. Now, when I was here in April, April 23rd, the concrete under that building number 5, the mobile home was 30 percent complete.

MR. TORLEY: Wait, stop, the mobile home is there it may or may not be legally there at this time. You're saying what we're what going to do now is we're going to pour concrete under it and now claim it's legal?

MR. SCHNABEL: No, it was on a slab that was approved by the prior building inspector who's not there anymore and has not been there for quite a while. It was on an asphalt pad and to correct any concerns my client agreed to put a four inch slab of concrete under the existing mobile home, that's the story that concerns that building number 5.

MR. TORLEY: Well, whether or not there's a slab under it or not, that mobile home as such would not be permitted in the zone, as I recall. Am I correct or incorrect on that?

MR. BABCOCK: That's correct. What the law says is that if you have a pre-existing, legal pre-existing, legal pre-existing mobile home, it can be replaced as long as it's replaced on a permanent foundation which is a 4 inch slab and it does not increase the degree of non-conformity which the mobile home is there now. Mr. Mans has been told that if they put a bigger mobile home on it would have to go towards the north so that it wouldn't get any closer to the south property line.

MR. SCHNABEL: For the record, I'm going to present you with an affidavit that's dated May 9 of 1989 that states that the mobile home was on that property, 14 x 70 mobile home in 1974 and it was replaced by another one of the same size.

MR. TORLEY: '74?

MR. SCHNABEL: That's correct.

MR. TORLEY: Seven years after the zoning code went into effect.

MR. SCHNABEL: Well, this is when this person observed it.

MR. KANE: What I think was under the same thing as building number 1 and 2, I'd like to see more detailed proof when that was put up.

MR. TORLEY: This does not convince me or give me any evidence that it did not pre-exist zoning. If it was not there as of the date of the acceptance of the zoning code, it was illegal and pre-existing has no bearing.

MR. SCHNABEL: Here's another affidavit from Mr. Anthony Monte also stating the same as the one I just gave you, 1974.

MR. TORLEY: Okay.

MR. KANE: It would be helpful if you can even through the tax assessor's office get some data on the taxes paid on the buildings and the dates that the taxes were paid, that would help show more.

MR. REIS: Do you happen to know if the mobile home is occupied?

MR. SCHNABEL: It is rented out on a continuous basis.

MR. TORLEY: Now, I have one more question then with the board's permission, I'd like to open it up to the public. One of the simple variance requests that this has is lot area, lot width. Now, your client has a non-conforming lot and he owns adjacent property, if he merged those two pieces of property, would he not then have a conforming lot?

MR. SCHNABEL: I don't believe so because he does not own all the adjacent properties.

MR. TORLEY: Lot width he would get.

MR. SCHNABEL: You've got 1, 2, 3, he owns 3 adjacent lots but not adjacent to each of the variances he's looking for, so maybe I misunderstood you.

MR. TORLEY: If he merged those three lots into his lot we have been discussing, would the sum total of those

additional three lots provide him with area legality?

MR. KANE: Well, it would take away the 11 percent coverage.

MR. TORLEY: And correct the side yard or not all the side yards but would cover the lot width:

MR. BABCOCK: Keep in mind that there's other structures on those lots, they are not vacant, none of the lots are vacant, so you'd have to take into consideration the developmental coverage on individual lots.

MR. SCHNABEL: I know there are houses on at least, I believe houses on all three of them.

MR. TORLEY: And those are conforming houses?

MR. SCHNABEL: I would hope that they are. I have not got any information on that at this point, I'm not looking for any variances on those.

MR. KANE: The only problem I have opening to the public at this point is that if you open and close that you cannot reopen it to the public.

MR. TORLEY: I can adjourn it.

MR. KANE: Just wanted to make sure.

MR. TORLEY: Thank you for making sure of that, appreciate that. So what I'm doing is I'll open it up to the public and if you have any questions, come on up or you can sit there. I can't see around the sign.

MR. POURTEOUS: Paul Pourteous, P-O-U-R-T-E-O-U-S. First thing I have to say I have been here since '74 when it was a nice area. Believe me, since Casey Mans came into the property, I live in a ghetto. Each home if you go up there should be tore down. I know up where he had bought the house up there off Mr. Monte, that's true in the back there's a trailer with a family living in it which I'm sure does not have a sewer even. The trailer they're talking about in back of the house

by the Honda shop should be towed away, completely garbage, everything Casey Mans touches that I have seen in the area or people tell me he has no class. I told him to his face so I'm not afraid is garbage. When the policeman come to our block, they know right away Casey Mans. Have you seen that place? It's all the same. Whatever he has in mind I feel it would just make the street go down more and more and more because he hasn't cleaned up what he has. The house on the corner he bought from Schermerhorn, that's garbage. So I have to say cause I have my home for sale because I couldn't cope with the environment of Fern Avenue. He offered by buy it, I wouldn't sell it to him because I don't want to see my house go down. That's about it.

MR. TORLEY: Sir, so I would take it that you are opposed to him, Mr. Mans, being granted this variance?

MR. POURTEOUS: The only thing I would be opposed to is somebody come and bulldoze whatever he owns.

MR. POURTEOUS: Take a ride up Fern Avenue, you'll think you're in lower Newburgh.

MR. KANE: Thank you very much.

MR. TORLEY: At this time what I'll do is be adjourning the public hearing, we'll not be voting on this tonight so that means at the next meeting and it will be the next meeting.

MR. SCHNABEL: When is that?

MS. CORSETTI: The 24th of September, two weeks.

MR. SCHNABEL: I won't be able to be here.

MR. TORLEY: Someone will be here.

MR. SCHNABEL: Somebody will be here.

MR. TORLEY: Or Mr. Mans will be here or we'll continue without you, if necessary.

MR. BABCOCK: Mr. Chairman, maybe I can suggest in the



next couple weeks that the board members, if they're going by to stop by.

MR. MC DONALD: Already have.

MR. TORLEY: Yeah, it stands out as you go by.

MR. MC DONALD: I would like a letter, a fire report from Mr. Rogers later than since April, I know for a fact there's more violations in there.

MR. BABCOCK: Mr. Chairman, also, one other thing that I have noticed on the plan it says to the north of building number 1 it says existing 7 foot wide truck and existing travel trailer, maybe we can ask the applicant what that is and if that's going to remain.

MR. TORLEY: Thank you. Sir, what is that?

MR. SCHNABEL: I'm sorry, Mike?

MR. BABCOCK: Building number 1, the showroom, the front building.

MR. CUOMO: Yeah, there's two vehicles parked.

MR. TORLEY: Weeds going through them, parked there for years or--

MR. SCHNABEL: No, I believe it's been there for years, building number 4 storage building, the other things are movable.

MR. BABCOCK: Mr. Chairman, do you see the one he's talking about back by the mobile home? There's another mobile home that's 12 x 70 that's says storage building.

MR. SCHNABEL: Anyway it's on the property.

MR. TORLEY: Well now so this is not an occupied mobile home?

MR. SCHNABEL: No.

MR. TORLEY: Really a storage trailer.

MR. BABCOCK: It's a mobile home storage.

MR. TORLEY: What's the code have to say about that?

MR. BABCOCK: That's why he's here tonight.

MR. TORLEY: So actually this building number 4 is also illegal.

MR. MC DONALD: Yes.

MR. KANE: What we need from you, sir, I'd like to see the C.O.'s or anything to give an idea of when each of the five buildings were built as authoritative as you can get, tax department, whatever, so that you can give us some information to work with.

MR. TORLEY: And I will assume absent documentation showing that they have C.O.'s that they have none.

MR. SCHNABEL: I think that that's a proper assumption to make.

MR. BABCOCK: One other thing I'd like to clear up tonight on the record is there is on the side of building number 2 it says dog house, it's a 17 by--

MR. SCHNABEL: That's an old concrete block. No, it's an old block structure, I guess they had at sometime they kept some poor animals in there, it's attached to the storage, new storage facility.

MR. TORLEY: It's part of the building?

MR. SCHNABEL: Yes.

MR. TORLEY: So it's really not a 17 foot side yard variance but it's a six inch side yard?

MR. SCHNABEL: I would say with the dog house that's been there forever.

MR. BABCOCK: We're saying it's 4 feet away from the

parking lot.

MR. TORLEY: The dog house is 4 foot away?

MR. BABCOCK: That's correct.

MR. CUOMO: Right.

MR. TORLEY: Do you have any other information that you wish to have provided at the next meeting besides what we discussed?

MR. SCHNABEL: You want another fire report?

MR. TORLEY: All evidence you have regarding C.O.'s and I would appreciate some photographs of these structures.

MR. SCHNABEL: I believe I have some photographs here, I'll take a look. Most of the photographs that I have are of adjacent violations which were presented at the court hearing. Let's see if I have one for this.

MR. TORLEY: Adjacent violations not from Mans?

MR. SCHNABEL: Not of Mr. Mans, here's one of the new building number 3, the new storage building, new showroom, this shows the ramp up to that building. This is the famous or infamous canopies.

MS. CORSETTI: Can we keep these for the public hearing?

MR. SCHNABEL: Yes. This is the mobile home.

MR. TORLEY: Do you have any other things you wish him to bring for the next meeting? Now, we have adjourned the public hearing, I would entertain a motion to adjourn this part of the hearing.

MR. KANE: So moved.

MR. TORLEY: Until the next session, which is September 24th.

September 10, 2001

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MR. KANE: So moved, take it off the table at that session on September 24, 2001.

MR. MC DONALD: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. KANE	AYE
MR. REIS	AYE
MR. TORLEY	AYE

MR. KRIEGER: Since it was adjourned to a specific date, there will be no need on that date to have a motion to take it off the table. You can just go ahead and put it on the agenda as you adjourned to a specific date this time.

MR. KANE: Thank you.



# Town of New Windsor

555 Union Avenue  
New Windsor, New York 12553  
Telephone: (914) 563-4631  
Fax: (914) 563-4693

## Assessors Office

August 13, 2001

21

Cuomo Engineering  
1016 World Trade Way  
Stewart International Airport  
New Windsor, NY 12553

Re: 9-1-22

Dear Mr. Cuomo,

According to our records, the attached list of property owners are within five hundred (500) feet of the above referenced property.

You may wish to check with The City of Newburgh also, however, as the subject parcel is within five hundred (500) feet of the City of Newburgh boundry line.

The charge for this service is \$35.00, minus your deposit of \$25.00.

Please remit the balance of \$10.00 to the Town Clerk's Office.

Sincerely,

Leslie Cook  
Sole Assessor

LC/bw  
Attachments

CC: Pat Corsetti, ZBA

9-1-1  
Central Hudson Gas & Electric Corp.  
284 South Ave  
Poughkeepsie, NY 12602

9-1-109  
Argenio Bros. Inc.  
P.O. Box 2068  
Newburgh, NY 12550

9-1-21.3  
Town of New Windsor  
555 Union Ave  
New Windsor, NY 12553

10-1-1; 10-1-8  
Veronica & Anthony Monti  
15 Fern Ave  
New Windsor, NY 12553

9-1-23.1  
KWG Realty Corporation  
P.O. Box 2628  
Newburgh, NY 12550

10-1-2; 10-1-3  
Clarence Mans  
P.O. Box 247  
Vails Gate, NY 12584

9-1-4  
Tomlin Holding Corp.  
8 Susan Drive  
Newburgh, NY 12550

10-1-4  
Mans Bros. Property Management Inc.  
9 Fern Ave  
New Windsor, NY 12553

9-1-43.1  
Charles Thompson & William Weston  
C/o Heights Lumber  
3 Windsor Hwy  
New Windsor, NY 12553

10-1-5  
Cintia & Andres Garcia  
7 Fern Ave  
New Windsor, NY 12553

9-1-44.2  
Consolidated Rail Corp.  
6 Penn Center Plaza  
Philadelphia, Pa 19103

10-1-6  
Helen & Thomas Kennedy  
5 Fern Ave  
New Windsor, NY 12553

9-1-45.1  
Group Nine LP  
C/o KLM Industries, Inc.  
1585 Monroe Tpke  
Stevenson, Ct 06491

10-2-1  
Mihalco Emil Jr.,  
John & Helen, Barbara Mulleavy  
14 Fern Ave  
New Windsor, NY 12553

9-1-45.2  
Mash Realty LLC  
1585 Monroe Tpke  
Stevenson, Ct 06491

10-2-2  
Inda & Frederick Porteous  
12 Fern Ave  
New Windsor, NY 12553

9-1-106.2; 10-1-7; 10-2-4; 10-2-6; 10-2-7  
Mans Bros. Realty Inc.  
P.O. Box 247  
Vails Gate, NY 12584

10-2-3  
Zanif & Osman Ozkurt  
10 Fern Ave  
New Windsor, NY 12553

9-1-108  
New Windsor Equipment Rentals &  
Service, Inc.  
P.O. Box 2068  
Newburgh, NY 12550

10-2-5  
Colleen & Douglas Mans  
38 Windsor Highway  
New Windsor, NY 12553

**ZONING BOARD OF APPEALS:TOWN OF NEW WINDSOR  
COUNTY OF ORANGE:STATE OF NEW YORK**

**In the Matter of the Application for Variance of**

**AFFIDAVIT OF  
SERVICE  
BY MAIL**

C.P. Marrs.

# 01-08.

STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF ORANGE )

**PATRICIA A. CORSETTI, being duly sworn, deposes and says:**

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

That on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I compared the \_\_\_\_ addressed envelopes containing the Public Hearing Notice pertinent to this case with the certified list provided by the Assessor regarding the above application for a variance and I find that the addresses are identical to the list received. I then caused the envelopes to be deposited in a U.S. Depository within the Town of New Windsor.

**Notary Public**

Sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**Notary Public**

TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

# 01-08

Date: 8/08/01

I. ✓ Applicant Information:

- (a) Clarence P. Mans - 16 Tamarah Lane Cornwall NY 12518 - 5842363  
(Name, address and phone of Applicant) (Owner)
- (b) \_\_\_\_\_  
(Name, address and phone of purchaser or lessee) 4692023
- (c) Philip Schnabel - P.O. Box 247 - Rt 94 / Old Temple Hill Rd. Vails Gate, NY 12584  
(Name, address and phone of attorney)
- (d) Paul Cuomo - Stewart Int Airport, New Windsor, N.Y. 12553 5670063  
(Name, address and phone of Contractor/engineer/architect)

II. Application type:

☐ Use Variance

☐ Sign Variance

☒ Area Variance

☐ Interpretation

III. ✓ Property Information:

- (a) "C" 28 Windsor Highway, New Windsor 9-1-22 1.4 acres  
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? None
- (c) Is a pending sale or lease subject to ZBA approval of this application? No
- (d) When was property purchased by present owner? \_\_\_\_\_
- (e) Has property been subdivided previously? No
- (f) Has property been subject of variance previously? No  
If so, when? \_\_\_\_\_
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? Yes
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: Yes - Storing  
wooden planks

IV. Use Variance. N/A

- (a) Use Variance requested from New Windsor Zoning Local Law, Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs., Col. \_\_\_\_\_, to allow:  
(Describe proposal) \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_



(b) <sup>NA</sup> The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(c) Applicant must fill out and file a Short Environmental Assessment Form (SEQR) with this application.

(d) The property in question is located in or within 500 ft. of a County Agricultural District: Yes \_\_\_\_\_ No \_\_\_\_\_.

If the answer is Yes, an agricultural data statement must be submitted along with the application as well as the names of all property owners within the Agricultural District referred to. You may request this list from the Assessor's Office.

✓ V. Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs., Col. \_\_\_\_\_.

<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area <i>see attached</i>	_____	_____
Min. Lot Width	_____	_____
Reqd. Front Yd.	_____	_____
Reqd. Side Yd.	_____	_____
Reqd. Rear Yd.	_____	_____
Reqd. Street Frontage*	_____	_____
Max. Bldg. Hgt.	_____	_____
Min. Floor Area*	_____	_____
Dev. Coverage* _____ %	_____ %	_____ %
Floor Area Ratio**	_____	_____
Parking Area	_____	_____

\* Residential Districts only

\*\* No-residential districts only

✓ (b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3)

whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created. Describe why you believe the ZBA should grant your application for an area variance:

Purpose - To gain compliance with the  
town zoning code by the granting of several  
area variances

(You may attach additional paperwork if more space is needed)

VI. Sign Variance: N/A.

(a) Variance requested from New Windsor Zoning Local Law, Section \_\_\_\_\_, \_\_\_\_\_ Regs.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1	_____	_____	_____
Sign ..	_____	_____	_____
Sign 3	_____	_____	_____
Sign	_____	_____	_____
	_____	_____	_____

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

\_\_\_\_\_  
\_\_\_\_\_

VII. Interpretation. N/A.

(a) Interpretation requested of New Windsor Zoning Local Law, Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs., Col. \_\_\_\_\_.

(b) Describe in detail the proposal before the Board:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

✓ VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or



**ZONING BOARD OF APPEALS:TOWN OF NEW WINDSOR  
COUNTY OF ORANGE:STATE OF NEW YORK**

**In the Matter of the Application for Variance of**

**AFFIDAVIT OF  
SERVICE  
BY MAIL**

C.P. Mans.

# 01-08.

STATE OF NEW YORK)  
COUNTY OF ORANGE ) SS.:

**PATRICIA A. CORSETTI, being duly sworn, deposes and says:**

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

That on the 17 day of August, 2001, I compared the 21 addressed envelopes containing the Public Hearing Notice pertinent to this case with the certified list provided by the Assessor regarding the above application for a variance and I find that the addresses are identical to the list received. I then caused the envelopes to be deposited in a U.S. Depository within the Town of New Windsor.

Patricia A. Corsetti

**Notary Public**

Sworn to before me this

\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**Notary Public**

**Town of New Windsor  
555 Union Avenue  
New Windsor, NY 12553  
(845) 563-4611**

**RECEIPT  
#752-2001**

**08/08/2001**

**Maus Brothers Realty, Inc.**

**Received \$ 150.00 for Zoning Board Fees on 08/08/2001. Thank you for stopping by  
the Town Clerk's office.**

**As always, it is our pleasure to serve you.**

**Deborah Green  
Town Clerk**

**ZBA # 01-08**

As. publish immediately. Send bill to: C.P. Mans  
P.O. Box 247  
Vails Gate, N.Y. 12584

**PUBLIC NOTICE OF HEARING**

**ZONING BOARD OF APPEALS**

**TOWN OF NEW WINDSOR**

**PLEASE TAKE NOTICE** that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following Proposition:

Appeal No. 8

Request of C.P. Mans

for a VARIANCE of the Zoning Local Law to Permit:

existing five (5) buildings w/ less than the allowable lot area,  
lot width, side yard, total side yd., developmental coverage & front yard;  
being a VARIANCE of Section 48-12-Table of Use/Bulk Regs. - Cds. C, D, E, F & L

for property situated as follows:

28 Windsor Highway, New Windsor, N.Y.

known and designated as tax map Section 9, Blk. 1 Lot 22

PUBLIC HEARING will take place on the 10<sup>th</sup> day of Sept, 2001, at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York beginning at 7:30 o'clock P.M.

Lawrence Torley  
Chairman

By: Patricia A. Corsetti, Secy.



# Town of New Windsor

555 Union Avenue  
New Windsor, New York 12553  
Telephone: (845) 563-4617  
Fax: (845) 563-4695

R & F  
@ 9/10/01  
2BA  
meeting.

## Fire Inspectors Office

27 April 2001

Mr. Clarence Mans  
PO Box 247  
Vails Gate, New York 12584

Re: 28 Windsor Highway  
Section 9 Block 1 Lot 22

Dear Sir,

This letter is to inform you that your property at the above referenced location passed the fire prevention inspection on 26 April 2001.

Should you have any questions, please feel free to call me at the above referenced telephone number.

Very truly yours,

Robert F. Rodgers  
Fire Inspector

427101

TO ..... Frances Roth ..... DR.  
168 H. Drury Lane  
Newburgh, N.Y. 12550

DATE		CLAIMED	ALLOWED
4/23/01	Zoning Board Mtg	75	00
	Misc. 2		
	Mans, C.P. - 6		
	Merred - 2		
	Waldo - 2		
	Bolfs - 5		
	Langer - 2	85	50
	19		
		160	50



PRELIMINARY MEETINGS

MANS, C.P.

MR. TORLEY: First preliminary meeting Casey Mans referred by planning board for variances, 3.6 acres lot area, 91 ft. lot width, 60 ft. front yard, 11 ft. developmental coverage, plus side yards; building #1-47/64 ft., building #2-46/85 ft., building #3-47.5/69.5 ft., building #4-0/20.5 ft. and building #5-42.5/22.5 ft. plus 5 total side yard variances for existing buildings located at 28 Windsor Highway in a C zone.

Mr. Philip Schnabel, Esq. and Mr. Paul Cuomo appeared before the board for this proposal.

MR. TORLEY: Okay.

MR. SCHNABEL: My name is Phil Schnabel, I'm representing Casey Mans who is the owner of AAA Cycles at 28 Windsor Highway. And Paul Cuomo is the engineer who prepared the plans. The reason I'm here is that I represent Mr. Mans and the Town of New Windsor in the Town of New Windsor Justice Court to bring him into compliance with the regulations of the Town of New Windsor. He has complied with all of the requirements that the justice court imposed and one of the requirements was that he appear before the ZBA to apply for variances and then go before the planning board for the existing buildings on the property. So any questions that you might have, I'll be happy to try to address as would Mr. Cuomo.

MR. TORLEY: We're going to, so these are all, are these pre-existing buildings, are you trying to bring them into compliance?

MR. SCHNABEL: That's correct. The only building that's not pre-existing is the building number 2 and that will be a steel building that Mr. Mans got a building permit for and is seeking C of O for and needs to get a variance first. The others are all pre-existing buildings.

MR. KANE: What year were the other buildings built?

MR. SCHNABEL: He acquired the property in 1971, the buildings that are there now, other than the steel building were there before then.

MR. KANE: At the public hearing, I'd like you to address the, if you can, the dates when those buildings went up. You can probably get it through the building or tax department.

MR. TORLEY: And when you purchased the land.

MR. SCHNABEL: He purchased it in 1971. I have affidavits from the former owner on the mobile home that's on the property that also was had to be brought into compliance because it was on a permanent foundation which was asphalt and Mr. Mans agreed that in addition to that foundation, that asphalt foundation, he would additionally put concrete footings under that foundation and he's got that probably about I believe 1/3 to 1/2 complete at present.

MR. TORLEY: Question for you, sir, one of the variances is 3.6 acre lot area, are we describing only the lot that's the long narrow lot on Windsor Highway and 32 and Fern Avenue is also a plot of land is listed as being belonging to Mans Brothers Realty?

MR. SCHNABEL: That's a new piece of property, we're not speaking about that tonight.

MR. TORLEY: Are these owned by the same person?

MR. SCHNABEL: That's correct.

MR. TORLEY: So we have two lots and he owns additional lots adjacent to this substandard lot. If he added in those lots into his property, would he not then become in compliance as far as area, the one in the front and one about several other lots back there, some of those lots bring him up under the lot area size. So these are adjacent lots, adjacent non-conforming lots with a common ownership and they're supposed to be combined.

MR. CUOMO: They're separate lots.

MR. TORLEY: Be prepared to talk about that at the public hearing because separate lots, separate non-conforming lots in the same ownership that are adjacent.

MR. SCHNABEL: That's correct but they're a different use.

MR. TORLEY: They're adjacent, non-conforming lots, we'll talk about that at the public hearing.

MR. SCHNABEL: Okay.

MR. REIS: Just a comment, do those lots, are they single family dwellings on the lots?

MR. CUOMO: Yeah, there's dwellings.

MR. MANS: Single family lots, houses.

MR. SCHNABEL: On each of the three lots?

MR. MANS: The adjoining lots, yes.

MR. SCHNABEL: Yes, in answer to your question, there are single family dwellings on each of those adjoining lots.

MR. KANE: Okay.

MR. TORLEY: This is going to be a rather complicated series of variance requests.

MR. SCHNABEL: I agree. The only comment that I'd like to make as the board addresses this is that it's in a commercial zone, there would, there's no additional municipal services required. The benefit to the applicant would not affect the health, welfare and safety of the community. There are canopies that were erected and I have pictures to show why they were erected because of the commercial establishments across Windsor Highway that spew forth quite a bit of debris and dust that not only affect his property but affect

the adjoining properties where people have to cover over their cars. But, of course, since he's got a showroom and a business that sells motorcycles, he has to protect his merchandise from that spewing forth of these materials.

MR. TORLEY: One other item that you can speak to even though you'll have to go to the planning board for this again, obviously, I note from the minutes from the planning board that you also have a disapproval from the fire department.

MR. SCHNABEL: On which property?

MR. TORLEY: Just looking at the minutes from the planning board saying that you have a disapproval from the fire department.

MR. SCHNABEL: I know that on building number 2, which he's seeking a C of O for, he's made substantial renovations to comport with the requirements, so I don't know what the fire department violation is, but I know that we have addressed every violation that was listed, there was a question of access for the fire vehicles and that's been addressed, he's blacktopped all the area around the building number 2.

MR. TORLEY: My only point is planning board has jurisdiction over this, we're also charged with public health and safety and I would have difficulty granting a variance if the fire department is disapproved.

MR. SCHNABEL: Exactly and I don't know, I'm unaware of what they have disapproved, I would assume it's something to do with building number 2 but I'll let Mr. Mans address that.

MR. MANS: The fire department has approved, they asked me to put in fireproof ceilings and bathrooms.

MR. TORLEY: When we get to the public hearing, we'll get to that. I didn't want you to be surprised by any questions.

MR. BABCOCK: What the thing is what he's got is that

the last approval that the planning board had was a disapproval on the site plan, has nothing to do with building codes. And I'm sure you've been back to the workshop, now, what you should do, just talk to Bobby and tell him that you need a thing saying that the site plan is okay, forget about the building for now, we'll get the site plan at the planning board.

MR. TORLEY: June 14, 2000 minutes.

MR. BABCOCK: So it's a year ago, you know.

MR. SCHNABEL: Okay. Just for the record, Mike, the violation is not existing now, is it?

MR. BABCOCK: Well, I don't know what he's talking about but go see Bobby.

MR. TORLEY: I wanted you to be prepared.

MR. SCHNABEL: I wasn't aware of that.

MR. REIS: What's preempting, why are the plans here, these buildings have been here quite a while?

MR. SCHNABEL: Correct, with the exception of building number 2, the steel building, everything else has been there.

MR. KANE: What brings him to the ZBA at this point?

MR. SCHNABEL: Because the justice court in clearing up all the violations required him to get planning board approval for the existing structures which some of them have not and the steel building number 2 on the plan does not have a C of O, although he had a building permit for it, it's never been closed out so that's one of the problems, that's why we're looking for the variances and the area variances.

MR. REIS: Thank you.

MR. MANS: It was originally built for cold storage, storage of vehicles and so forth without complying with the heat factor, the bathroom and that and that's when

April 23, 2001

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they said if we were going to use it for a showroom or anything of that nature for selling purposes that we would have to comply with the fireproof ceiling and the bathroom, the heating and plumbing and all the rest which we have done.

MR. KANE: Accept a motion?

MR. TORLEY: Yes.

MR. KANE: I move we set up C.P. Mans for a public hearing on his requested variances.

MR. REIS: Second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. TORLEY	AYE

R & F  
9/10/01.

AFFIDAVIT

STATE OF NEW YORK  
COUNTY OF ORANGE

I Douglas P. Mans, do hereby state and declare, that I reside at 28 Windsor Highway in New Windsor. That I have lived at that address since 1979, and I am familiar with the location and area.

To the best of my knowledge, a mobile home was located, behind the Green residence, located at 28 Windsor Highway, in New Windsor, prior to March of 1974, when the property was purchased by Mr. C. P. Mans. Approximately 5 years later this mobile home was replaced by the 14 x 70 mobile home, that is now located at the site of the original mobile home, and I have resided in that mobile home since that time.

Douglas P. Mans  
Douglas P. Mans  
28 Windsor Highway  
New Windsor, NY 12550

Sworn to before me this  
11th day of May 1989

Miriam H. Albasi  
NOTARY PUBLIC

WILLIAM H. ALBASI  
Notary Public, State of New York  
No. 009000 5034800  
Qualified in Orange County  
Commission Expires April 01, 1990  
1990

RqF  
9/10/01.

AFFIDAVIT

STATE OF NEW YORK  
COUNTY OF ORANGE

I Anthony Monti, do hereby state and declare, that I reside at 15 Fern Avenue in New Windsor. That I have lived at that address since 1954, and I am familiar with the location and area.

To the best of my knowledge, a mobile home was located, behind the Green residence, located at 28 Windsor Highway, in New Windsor, prior to March of 1974, when the property was purchased by Mr. C. P. Mans. Approximately 5 years later this mobile home was replaced by the 14 x 70 mobile home, that is now located at the site of the original mobile home.

Anthony Monti  
Anthony Monti  
15 Fern Avenue  
New Windsor, NY 12550

Sworn to before me this  
11th day of May 1989

Miriam H. Albasi  
NOTARY PUBLIC

MIRIAM H. ALBASI,  
Notary Public, State of New York  
No. 5084600  
Qualified in Orange County  
Commission Expires April 30, 1990



OFFICE OF THE PLANNING BOARD - TOWN OF NEW WINDSOR  
ORANGE COUNTY, NY

*Prelim.*  
*Apr. 23, 2001*  
*# 01-08*

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION

PLANNING BOARD FILE NUMBER: 97-22

DATE: 12 MAR 01

APPLICANT: CASEY MANS  
76 MANS BROTHERS  
P.O. BOX 247

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 29 APRIL 1997

FOR (~~SUBDIVISION~~) - (SITE PLAN)

LOCATED AT 28 WINDSOR HIGHWAY (RT 32)

ZONE C

DESCRIPTION OF EXISTING SITE: SEC: 9 BLOCK: 1 LOT: 22

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

- 1) LOT AREA and LOT WIDTH VARIANCES IF REQUIRED
- 2) 4 SINGLE SIDE + 5 TOTAL SIDE YD VARIANCES
- 3) DEVELOPMENT CVG VARIANCE
- 4) FRONT YARD VARIANCE

*[Signature]*  
MARK J. EDSALL For  
MICHAEL BABCOCK,  
BUILDING INSPECTOR

\*\*\*\*\*

REQUIREMENTS	PROPOSED OR AVAILABLE	VARIANCE REQUEST
ZONE <u>C</u> USE <u>A-15</u>		
MIN. LOT AREA <u>5 AC</u>	<u>1.4 AC</u>	<u>3.6 AC **</u>
MIN. LOT WIDTH <u>200 FT</u>	<u>109</u>	<u>91 **</u>
REQ'D FRONT YD <u>100 FT</u>	BLDG #1 40'	(front) <u>60' (canopy)</u>
REQ'D SIDE YD. <u>50 FT</u>	BLDG #1 3/36'	<u>47/64'</u>
REQ'D TOTAL SIDE YD. <u>100 FT</u>	BLDG #2 4/15'	<u>46/85'</u>
REQ'D REAR YD. <u>50 FT</u>	BLDG #3 2.5/20.5'	<u>47.5/69.5</u>
REQ'D FRONTAGE <u>50 FT</u>	BLDG #4 60/79.5'	<u>6/20.5</u>
MAX. BLDG. HT. <u>18 FT</u>	BLDG #5 7.5/77.5'	<u>42.5/22.5</u>
FLOOR AREA RATIO <u>N/A</u>	<u>750 FT</u>	<u>—</u>
MIN. LIVABLE AREA <u>N/A</u>	<u>109 FT</u>	<u>—</u>
DEV. COVERAGE <u>10</u> %	ALL <u>15' +/-</u>	<u>—</u>
O/S PARKING SPACES	<u>N/A</u>	<u>N/A</u>
SITE = <u>21</u> %	<u>—</u>	<u>—</u>

O/S PARKING SPACES

**\*\* PRE-EXISTING - VARIANCE IF DETERMINED BY BOARD.**

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT:  
(914-563-4630) TO MAKE AN APPOINTMENT WITH THE ZONING BOARD  
OF APPEALS.

CC: Z.B.A., APPLICANT, P.B. ENGINEER, P.B. FILE

June 14, 2000

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ZBA REFERRAL:

AAA CYCLE SHOP (97-22) WINDSOR HIGHWAY

Mr. Paul Cuomo and Philip Schnabel, Esq. appeared before the board for this proposal.

MR. CUOMO: Good evening, here representing is attorney Phil Schnabel.

MR. SCHNABEL: Phil Schnabel representing Mans and we're looking for a ZBA referral on the property as AAA Cycle Shop located 28 Windsor Highway, looking for a variance that are needed for canopies for a mobile home that's on the property for a storage trailer and another canopy. The variances are listed as building 5 for the mobile home, which I have affidavits, it's been there since before the building code was adopted and was replaced by another mobile home again, before the building code was adopted, building number 4 is a storage trailer, we're looking for an area variance on that, building number 3 is a canopy and we're looking for an area variance on that.

MR. PETRO: Mr. Schnabel, mostly everything that you are looking for variances on are already built or existing?

MR. SCHNABEL: That's correct. It's all existing structures and uses that have been there for quite a while.

MR. PETRO: This storage trailer in the rear that's just a container trailer, that's not a licensed, just you want to keep it remaining there, is that what it is?

MR. BABCOCK: Correct.

MR. LANDER: Mobile home, Mr. Mans, is somebody residing in that or--

MR. MANS: Yes, they have been for 15 years.

MR. LANDER: Is that a caretaker or something of that

sort?

MR. MANS: No, it's actually a caretaker.

MR. LANDER: Is that a dog house?

MR. MANS: No, we called it that because of the building on top we always referred to it as the dog house, it's a dog house that was canopied to the side of the steel building.

MR. LANDER: Thought it was rather large for a dog house.

MR. MANS: Right, we have a dog run by the main building, building number 1, there's a whole length of the building, there's a dog run there and we do keep two dogs there constantly.

MR. LANDER: Which canopy do you need the variance, there's one in the front and there's one in the rear, is it right in front of building 3?

MR. SCHNABEL: Building 3 is the canopy, the other ones are in the front and they are erected to keep out debris and dust and so forth years ago and we're looking to get a variance so that they'll, they can be legal.

MR. PETRO: You have a disapproval from the fire department, Andy, let me go to you with this question, I think we can still refer them to the ZBA to get the necessary variances, correct, if they're successful?

MR. KRIEGER: That's the only place to go to get variances.

MR. PETRO: Even though they have disapproval, there's three concerns that he has there, we can address those when he comes back to the planning board.

MR. KRIEGER: Going to the zoning board doesn't change that in any way, shape or form.

MR. PETRO: In the meantime, we can give you a copy of

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the three comments he wants addressed, none of them seem insurmountable, maybe you can have that taken care of, I don't want that to hold you up to go to the zoning board, unless you disagree?

MR. BABCOCK: No, that's fine.

MR. PETRO: Obviously, you're here to try and clean up this ongoing problem that you have with the property and I do know that a lot of the buildings have been there for a long time, doesn't make it right or wrong, just want to get it cleared up. With that, let me have a motion for final approval.

MR. LANDER: So moved.

MR. LUCAS: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant final approval to the AAA Cycle Shop on Windsor Highway. Any further discussion from any of the board members? Roll call.

ROLL CALL

MR. BRESNAN	NO
MR. LUCAS	NO
MR. LANDER	NO
MR. PETRO	NO

MR. PETRO: At this time, you have been referred to the New Windsor Zoning Board for the necessary variances that you need to acquire to have a successful trip back to the planning board. If you do receive those, have them properly put on the plan then you can come before this board again. There's also some comments I think you should get a copy of Mark's comments about the bulk table and some of the dimensions that need to be corrected and I would say that they need to be corrected before you go to the zoning board so they can give you the proper variance, because if you correct them, come back to this board and it's not the variance that you received, we're going to have to send you back to the zoning board. You understand that, Paul?

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MR. CUOMO: We'll correct it.

MR. PETRO: Very important you do it before you go to zoning board, you have the proper dimensions, okay, do you understand why?

MR. CUOMO: Sure because we've got five different buildings there.

MR. PETRO: Well, you don't want to get a variance for something that's not going to be what you have on the plan. Mark, you'll review that, correct?

MR. EDSALL: Yes, we'll help him out.

MR. PETRO: Casey, you understand that?

MR. MANS: Yes.

MR. PETRO: Also Bobby Rogers had those three comments, none over them are major major comments, I don't want to belittle the comments but all stuff that can be fixed just by numbering and dimensions, so why don't you take a look at that and--

MR. BABCOCK: He disapproved the plan so you need to meet with him.

MR. MANS: Right, okay.

MR. PETRO: You've got a copy, she faxed a copy today to Paul, it's probably in your office.

cc: PJC  
Re: CP Mans.  
GRANTED

9-1-15.2, CALVET, HAROLD AREA VARIANCE  
3&4 41 WINDSOR HIGHWAY/GI ZONE -  
LOT AREA/FRONT YD.

CONST. OF STORAGE BUILDING #70-2

9-1-15.2,3,4 CALVET, HAROLD VARIANCE  
41 WINDSOR HIGHWAY RB ZONE  
REQUEST FOR TOOL RENTAL BUSINESS

GRANTED

9-1-15 CALVET TOOL RENTAL INC. AREA VARIANCE/INTERP.  
124 WINDSOR HIGHWAY #83-28 PI ZONE

DENIED  
09/26/83

Request for 1,450 s.f. area variance for lot #2 on front portion of property and 15 ft. Lot width; and interpretation that the sale of ready-mixed concrete for use by small contractors and homeowners is a permitted use on this property. The zba found that this use is a permitted use under title terms of subd. 4 and 6 of the use regs. Col. A in a pi zone. However, area variances were denied.

9-1-22 MILLER, KENNETH J. USE/AREA VARIANCE  
ROUTE 32 #73-13

GRANTED

CONST OF BLDG. FOR SALE OF NEW/USED CARS/CAVTERS/TRAILERS IN GI ZONE

9-1-22 MANS, C. P. SIGN VARIANCE

GRANTED

28 WINDSOR FUGHWAY-HONDA SHOP #78-14 PI ZONE 518n8

Request for 96 s.f. sign area variance for honda shop.

9-1-22 MANS BROS. AREA VARIANCE  
28 WINDSOR 14IGHWAY #81-2 2/9/81

DENIED

Request for 11 ft. Side yard variance for construction of additional building for repair of motorcycles and warehouse in pi zone. 9-1-22 mans, c.p. area variance pi zone granted

28 WINDSOR HIGHWAY #81-24 PI ZONE 1/25/82

Request for 12 ft. Side yard variance for construction of warehouse to the rear of property located on route 32 in pi zone.

9-1-23.1 KWG REALTY CORP. EXT OF N/C USE  
ROUTE 32, SOUTH PI ZONE #88-12

03/14/88

GRANTED

SIGN VARIANCE #89-22 05/22/89

Request for extension of non-conforming use (commercial trucking business) granted on 03/14/88 under zba file #88-12. Request for 36 s.f. sign variance for three (3) signs on building facade, total sign area will be 96 s.f., including (1) 4 x 5 s.f. (2) 4 x 12 s.f. and (3) 4 x 7 s.f. sign area depicting "gallagiter", "gm[c trucks" and "peterbilt" under zba file #89-22.

#93-15 - GALLAGHER TRUCK CENTER C ZONE GRANTED 06/28/93

Request for 216 s.f. sign area variance for a free-standing existing sign, 25 ft. Sign height variance for a free-standing sign, 84.72 s.f. sign area variance for a proposed freestanding new sign and one free-standing sign variance to allow a total of two freestanding signs in a zone witere only one free-standing sign is permitted at the windsor 14ighway location. Now located in c zone.

#95-25 KWG REALTY CORP. SIGN VARIANCE  
24 WINDSOR HIGHWAY C ZONE

08/14/95

GRANTED

Request for variation of section 48-18h of the supplementary sign regulations to include more than one freestanding sign on a lot, more than one facade sign on building, a facade sign greater than 3.5 ft. X 10 ft. For the s.g. kimball, inc. Auto parts building located at 24 windsor highway in a c zone.

#96-38 request for 8 s.f. variance for freestanding sign (peterbilt) and 6 in. Height variance for *sane* sign, and an additional freestanding sign which is a variation of 4818h[2] & [4] which allows only one sign per lot, at gallagher truck center location, 24 windsor highway in a c zone.

100-557-900-40

One year which would expire on 12/10/92 due to the fact that the town delayed Construction on sewer district #24. Further request was made for additional extensions And approved through 12/10/93. On 11/08/93 a motion was made, seconded and carried to Extend variance through 0 1/20/95. On 12/12/94 a further extension was requested from Denhoff and was granted through 0 1 /20/96.

On 12/11/95 an extension of one year was granted to applicant for variance issued above to Expire on 0 1/20/97.

IN NOVEMBER 25,1996, AN EXTENSION OF ONE YEAR WAS GRANTED TO DENHOFF DEVELOPMENT FOR THEIR AREA VARIANCE (GRANTED ON 1/28/91). T14IS FURTHER EXTENSION WOULD EXPIRE ON 01/20/98.

9-1-15.2, CALVET, HAROLD AREA VARIANCE GRANTED  
3&4 41 WINDSOR HIGHWAY/GI ZONE -  
LOT AREA/FRONT YD.

CONST. OF STORAGE BUILDING #70-2

9-1-15.2,3,4 CALVET, HAROLD VARIANCE GRANTED

41 WINDSOR HIGHWAY RB ZONE

REQUEST FOR TOOL RENTAL BUSINESS.

9-1-15.2 CALVET, MICHAEL C ZONE #00-46 GRANTED: 10/24/00

41 WINDSOR HIGHWAY

REQUEST FOR 9 FT. HGT. AND 142 SQ. FT. SIGN AREA FOR FREESTANDING SIGN, PLUS 1.5 FT. HGT. AND 23.5 FT. WIDTH VARIANCE OR WALL SIGN AT 124 WINDSOR HIGHWAY IN A C ZONE.

9-1-15 CALVET TOOL RENTAL INC. AREA VARIANCE/INTERP. DENIED  
124 WINDSOR HIGHWAY #83-28 PI ZONE 09/26/83

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ROUTE 32 #73-13

CONST OF BLDG. FOR SALE OF NEW/USED CARS/CAMPERS/TRAILERS IN GI ZONE

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Request for 96 s.f. sign area variance for Honda shop.

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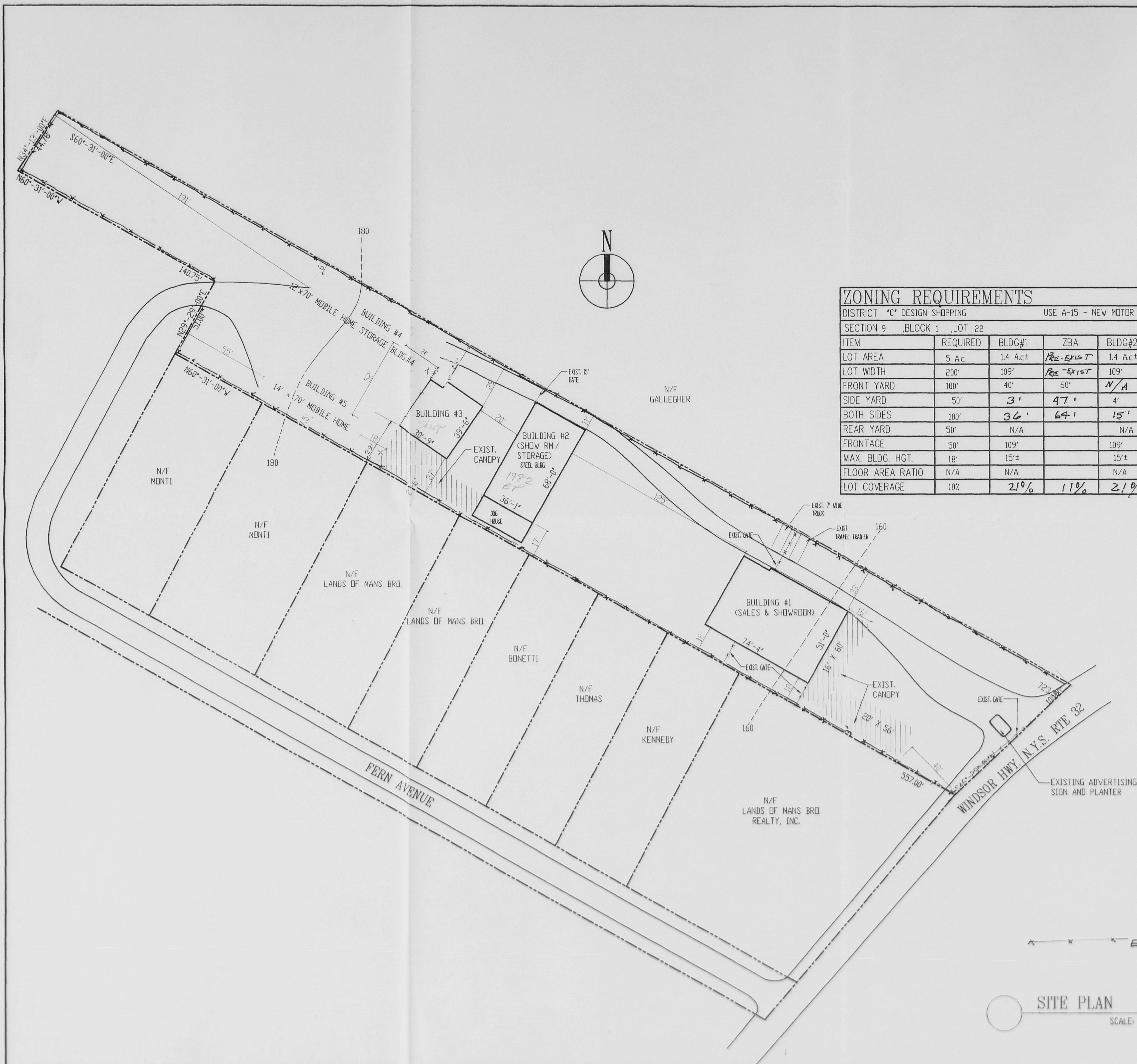
ROUTE 32, SOUTH PI ZONE #88-12

03/14/88

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### ZONING REQUIREMENTS

DISTRICT "C" DESIGN SHOPPING USE A-15 - NEW MOTOR VEHICLE SALES

SECTION 9, BLOCK 1, LOT 22

ITEM	REQUIRED	BLDG#1	ZBA	BLDG#2	ZBA	BLDG#3	ZBA	BLDG#4	ZBA	BLDG#5	ZBA
LOT AREA	5 AC.	1.4 AC±	PRE-EXIST	1.4 AC±	PRE-EXIST	1.4 AC±	PRE-EXIST	1.4 AC±	PRE-EXIST	1.4 AC±	PRE-EXIST
LOT WIDTH	200'	109'	PRE-EXIST	109'	PRE-EXIST	109'	PRE-EXIST	109'	PRE-EXIST	109'	PRE-EXIST
FRONT YARD	100'	40'	60'	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
SIDE YARD	50'	3'	47'	4'	46'	2.5'	47.5'	6.0'	44'	N/A	42.5'
BOTH SIDES	100'	36'	64'	15'	85'	30.5'	69.5'	79.5'	20.5'	77.5'	22.5'
REAR YARD	50'	N/A	N/A	N/A	N/A	N/A	N/A	191'	N/A	55'	N/A
FRONTAGE	50'	109'	109'	109'	109'	109'	109'	109'	109'	109'	109'
MAX. BLDG. HGT.	18'	15'±	15'±	15'±	15'±	15'±	15'±	15'±	15'±	15'±	15'±
FLOOR AREA RATIO	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
LOT COVERAGE	10%	21%	11%	21%	21%	21%	21%	21%	11%	21%	11%

### PARKING REQUIREMENTS

REQUIRED PARKING: RETAIL STORES & SHOPS  
1 PER 150 SQUARE FEET OF FLOOR AREA IN SALES USE

EXISTING RETAIL STORE FLOOR AREA = 3,800±  
3,800 SQ. FT. / 150 = 25.33 SPACE

PROVIDED PARKING SPACES:  
28 SPACES INCLUDING 1 HANDICAP

### GENERAL INFORMATION

1. OWNER APPLICANT:

AA CYCLE AND POWER INC.  
STATE ROUTE 32  
NEW WINDSOR, NEW YORK 12553

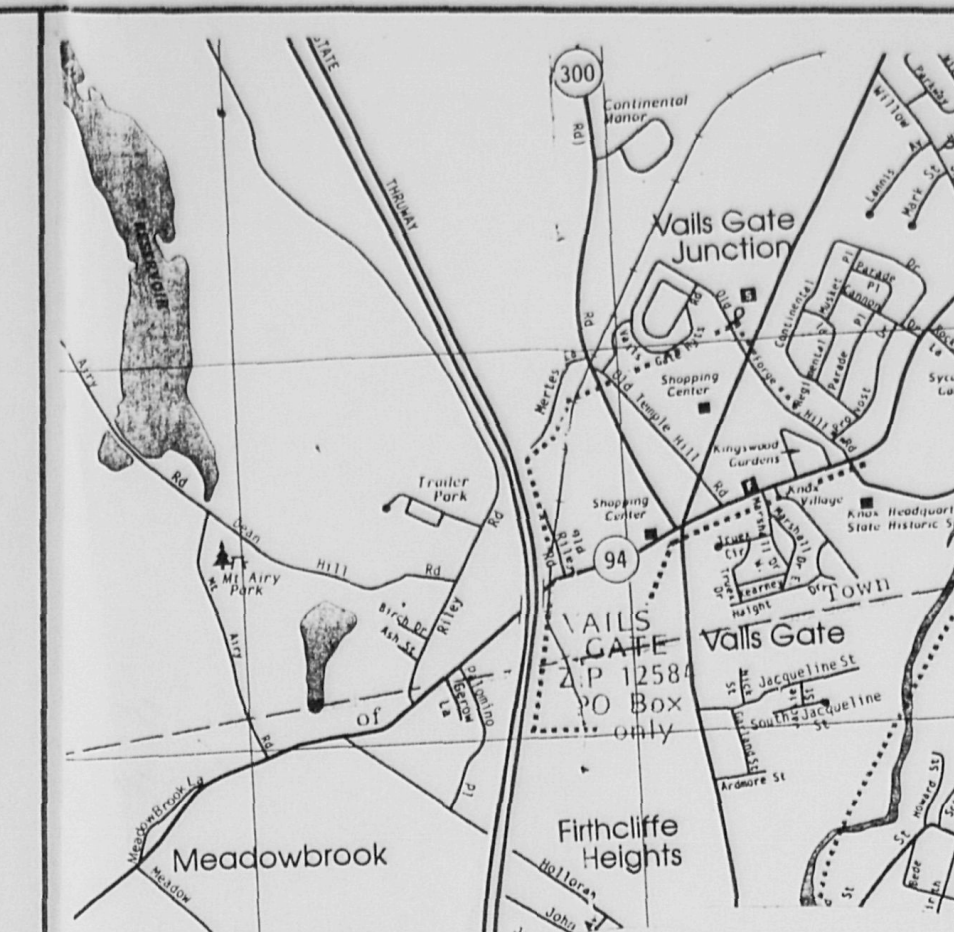
2. BOUNDARY SURVEY PROVIDED BY:

SIDNEY L. HOROWITZ, P.E. & L.S.  
MONTICELLO NEW YORK

APPROVAL BOX

SITE PLAN

SCALE: 1" = 30'-0"



LOCATION MAP

NOTE:  
THIS PLAN IS COPYRIGHTED  
UNAUTHORIZED ALTERATION  
TO THIS PLAN IS A VIOLATION  
OF SECTION 7209(2) OF THE  
NEW YORK STATE EDUCATION  
LAW.

DATE	ISSUANCE	BY

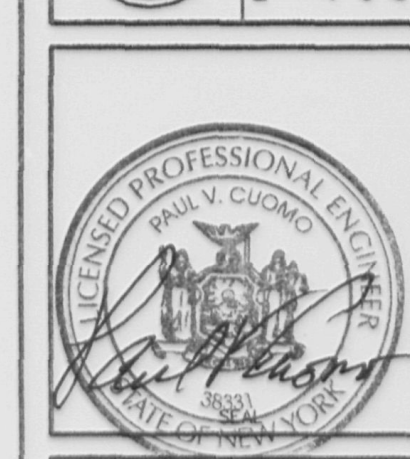
DATE	REVISIONS	BY
2/7/01	ENG COMM	PVC
11/01	ENG COMM	PVC
10-02-01	ENGINEER'S COMMENTS	P.V.C.
08-15-00	ENGINEER'S COMMENTS	P.V.C.
06-07-00	ENGINEER'S COMMENTS	P.V.C.
05-05-00	ENGINEER'S COMMENTS	P.V.C.

STEWART INTERNATIONAL AIRPORT, NEW WINDSOR, N.Y. 12553 (914) 567-0063

SITE PLAN FOR:

AA CYCLES AND POWER INC.

BLDG(S) 1,2,3,4 & 5



DATE	4-28-97
DRAWN BY:	P.V.C.
CHECKED BY:	P.V.C.
SCALE:	AS NOTED
PROJECT NO.:	97128

SP-1

97-22

RECEIVED  
FEB - 8 2001